

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES
PERSONNEL OPERATIONS MANUAL
POM

Subject: LEAVE, ALL TYPES

REFERENCES	SECTIONS
DGS Manual http://orpm.dgs.ca.gov/DGSManual/TOC/default.htm	1307-1314
Human Resources (HR) Policy Memos http://hr.dgs.ca.gov/PublicationsAndResources/default.htm	03-035, 01-033, 02-022
Law & Regulation http://www.dpa.ca.gov/statesys/dpa/laws.htm http://www.dpa.ca.gov/statesys/dpa/oalrules.htm http://www.dol.gov/esa/regs/statutes/whd/fmla.htm http://www.dol.gov/dol/allcfr/ESA/Title_29/Part_825/to_c.htm	DPA Rule: 599.752, 599.753, 599.776, 599.777, 599.925, 599.911, 599.913, 599.925.1 GC: 19858.3-19858.7 12945,1, 12945.2, CA Labor Code: 230.8 Dept. of Labor, Public Law 103-3 Code of Federal Regulations (CFR) 29, Chapter V, Part 825
Memo of Understanding (MOU) http://www.dpa.ca.gov/collbarg/contract/bumenu.shtm	Refer to Employee's MOU
Pay Scales http://www.dpa.ca.gov/jobinfo/pay_scales/toc.shtm	14
Responsible Control Agency and Program	Department of Personnel Administration
SPB/DPA Policy Memos http://www.dpa.ca.gov/statesys/dpa/srchfpml.shtm	PML: 92-89, 92-107, 93-68, 93-73, 94-61, 94-67, 95-018, 95-049, 95-058, 96-043, 97-012, 98-037, 99-050, 99-070, 2000-022, 2000-039, 2003-045, 2004-037, 2004-044, 2004-036, 2001-043, 2001-058, 91-61, 2005-004, 2005-032, 2005-036
Other:	
CA Family Rights Act http://www.dfeh.ca.gov/Statutes/cfra.asp Comparison Chart or FMLA, CFRA, etc. http://www.calaborfed.org/pdfs/Paid%20Family%20Leave%20Side%20by%20Side%20Chart%20FTDI%20CFRA%20PDL%20(2).pdf OHR Memo date 9/3/04 State Controller's Office Leave Accounting Letter http://www.sco.ca.gov/ppsd/scoltrs/clas/2004/index.shtml California State Employees' Handbook to Work and Family Policies and Benefits http://www.dpa.ca.gov/workingfamilies/home.shtm Work and Family Training Course http://www.cce.csus.edu/onlineCourses/workFamily/	#04-020

Leave, All Types

Policy

It is the policy of the DGS to allow eligible employees the benefit of leave in accordance with Government Code (GC), Department of Personnel Administration (DPA) rules, and DPA policy.

Types

This section briefly discusses the various types of leave available to eligible employees, which include:

<ul style="list-style-type: none">• Absence without leave (AWOL)• Annual Leave (A/L)• Bereavement• California Family Rights (CFRA)• Catastrophic• Family Medical Leave Act (FMLA)• Hurricane Relief Leave Program• Industrial disability (IDL)• Informal• Leaves of absence (LOA)• Mentoring• Military	<ul style="list-style-type: none">• Non-industrial disability (NDI)• Parental• Personal (PLP)• Pregnancy• Sick (S/L)• Supplemental industrial disability• Union• Vacation• Voluntary personal (VPLP)
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Absence without leave (AWOL)

Under special circumstances, state employees can be absent from work without pay. Absence without leave (AWOL) is subject to various Memoranda of Understanding (MOU) and may be cause for discipline and/or may result when:

- An employee is absent without his/her supervisor's approval
- S/he is absent for five consecutive days, which is considered an automatic resignation
- An employee's attendance is continually erratic; the supervisor can place the employee on notice

[Refer to Personnel Operations Manual \(POM\) section "Absence Without Leave."](#)

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Leave, All Types, Continued

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- Annual leave (A/L)** The Annual Leave Program, which is voluntary, replaces traditional vacation and sick leave with a more versatile annual leave pool. Under the pool, a participating employee:
- Receives annual leave credits (which are apportioned to the employee on a monthly basis)
 - Uses the leave credits for any approved absence (no distinction between vacation and sick)
 - Takes the credits in half-hour increments
 - Can carry over a higher annual leave balance than is permissible with vacation hours

Eligibility is limited to the following:

- Employees designated managerial ("M" and non-statutory E-99)
 - Employees designated supervisory ("S", E-48, E-59, and E-98)
 - Excluded Employees (E-97)
 - Confidential Employees ("C")
- Represented Employees in Bargaining Units 1, 2, 5, 6, 7, 8, 9, 10, 12, 13, 14, 16, 17, 18, 19, 20 and 21

Accrual rates are defined in the employee's MOU.

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- Bereavement leave** An employee is allowed time off if a member of his/her family dies. As with any other paid leave, the employee must consult with his/her supervisor for specific information regarding qualifying relationships and the amount of time available. Specific criteria are defined in the employee's MOU. [Refer to Personnel Operations Manual \(POM\) section "Bereavement Leave."](#)
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Leave, All Types, Continued

CA Family Rights Act (CFRA)

The CFRA was established to ensure secure unpaid leave rights for the following:

- Birth of a child for purposes of bonding
- Placement of a child in the employee's family for adoption or foster care
- For the serious health condition of the employee's child, parent, or spouse
- For the employee's own serious health condition

Serious health condition means illness, injury (including on-the-job injuries), impairment, or physical or mental condition of the employee or a child, parent or spouse of the employee that involves either:

- In-patient care (i.e., an overnight stay) in a hospital, hospice, or residential health care facility
- Continuing treatment or supervision by a health care provider

To be eligible for CFRA leave, an employee must be either a full-time or part-time employee and:

- Have more than 12 months (52 weeks) of service
- Have worked at least 1,250 hours in the 12-month period before the date the leave begins

An eligible employee may take an unpaid leave of up to 12 work weeks in a 12-month period for a "qualifying event," as described above.

Catastrophic leave

The purpose of catastrophic leave is to assist employees who are facing financial hardship due to catastrophic injury or illness or due to the effect of a natural disaster by providing for donation and transfer of eligible leave credits from other employees.

Represented employees may receive donations from non-represented or represented employees. The total leave credits received shall normally not exceed three months, however, the DGS may approve an additional three months of catastrophic leave donations for a total of not more than six months for any one catastrophic injury or illness.

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Leave, All Types, Continued

Catastrophic leave (continued)

Non-represented employees designated managerial as defined in GC section 3513(e) or supervisory as defined in GC section 3522.1, may not receive donations from a represented employee, except in cases of extreme hardship or other compelling circumstances as approved by the Director of the DPA. Donations may not exceed a maximum of 12 continuous months for any one catastrophic injury or illness.

Participation in catastrophic leave may be authorized if all the following conditions are met:

1. the employee faces financial hardship due to injury or prolonged illness of the employee or eligible family member, or due to a natural disaster
2. the employee has exhausted all leave credits (with the exception of sick leave in the case of a natural disaster)
3. the employee's request to participate in catastrophic leave has been reviewed by the employee's immediate supervisor and office Attendance Clerk and approved by the Division Chief

If an employee has an ongoing medical condition that requires periodic absences from work, to attend medical appointments, the employee may request CL for this purpose. The only condition is the employee does not break the continuity of the CL with dock but continues to work while using the CL and the employee uses all his/her leave credits before using CL credits.

Donated leave credits may be used to supplement non-industrial disability insurance (NDI), industrial disability leave (IDL), and Workers' Compensation temporary disability leave (TLD) in accordance with existing DGS policy and procedures. Employees who have leave credits restored as a result of IDL approval will retain the donated leave credits previously received for future supplementation.

Employees receiving catastrophic leave donations earn state service, retirement benefits, and continue to accrue leave credits. However, as in extended use of leave cases, probationary periods, Special-In-Grade Salary (SISA), Merit Salary Adjustments (MSA), and range changes may be affected by a prolonged absence.

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Leave, All Types, Continued

Catastrophic leave (continued)

Participation is terminated when one or more of the following has occurred:

- the specific need no longer exists
- the employee has received and used donations for the maximum time limits allowed

[Refer to Personnel Operations Manual \(POM\) section "Catastrophic Leave."](#)

Family Medical Leave Act (FMLA)

The DGS must grant unpaid leave to an eligible employee for one or more of the following reasons for up to 12 weeks of job-protected leave each year for specified family and medical reasons:

- for the care of the employee's child (birth, or placement for adoption, or foster care);
- for the care of the employee's spouse, son or daughter, or parent, who has a serious health condition; or,
- for a serious health condition that makes the employee unable to perform their job.

At the employee's or DGS' option, certain kinds of paid leave may be substituted for unpaid leave.

The employee may be required to provide advance leave notice and medical certification.

- In certain cases, the employee ordinarily must provide 30 days advance notice when the leave is "foreseeable."
- The DGS may require medical certification to support a request for leave because of a serious health condition.
- The DGS may also require medical certification if the employee is unable to return from leave because of a serious health condition.

An employee may take intermittent or reduced leave to reduce the usual number of hours per day or work week.

Intermittent or reduced leave schedules are subject to DGS approval unless medically necessary.

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Leave, All Types, Continued

Family Medical Leave Act (FMLA) (continued)

- Upon return from FMLA leave, most employees must be restored to their original or equivalent position with equivalent pay, benefits, and other employment terms. The DGS may deny restoration to certain, highly compensated employees, but only if necessary to avoid substantial and grievous economic injury to the DGS' operation.
- The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.
- The use of unpaid FMLA leave cannot affect the exempt status of bona fide executive, administrative, and professional employees under the Fair Labor Standards Act.

Medical Insurance Coverage...

- For the duration of FMLA leave, the DGS must maintain the employee's medical insurance coverage under any "group health plan," under the conditions coverage would have been provided if the employee had continued working.
- In some cases, the DGS may recover premiums paid for maintaining an employee's health coverage if the employee fails to return to work from FMLA leave.

FMLA Does Not...

- affect any federal or state law prohibiting discrimination;
- supersede any state or local law which provides greater family or medical leave rights;
- diminish the DGS' obligation to provide greater leave rights under a collective bargaining agreement or employment benefit plan, nor may the rights provided under FMLA be diminished by such agreement or plan; nor,
- discourage the DGS from adopting policies more generous than required by FMLA.

[Refer to Personnel Operations Manual \(POM\) section "Federal Medical Leave Act."](#)

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Leave, All Types, Continued

Industrial disability leave (IDL)

State employees who become disabled due to an accident or illness arising out of or in the course of State employment are eligible to receive Industrial Disability Leave benefits. Established by the Berryhill Total Compensation Act of 1975, Industrial Disability Leave (IDL) is a salary continuation program specifically designed as an alternative benefit program to Workers' Compensation Temporary Disability (TD). IDL is a benefit available to legislative employees and members of the Public Employees' Retirement System (PERS) or the State Teachers' Retirement System (STRS). [Refer to Personnel Operations Manual \(POM\) section "Industrial Disability Leave."](#)

Informal leave

A supervisor may grant an unpaid informal leave of absence to an employee, which is treated as "dock." Informal leave may not exceed 11 working days in a 22-day period or 10 working days in a 21-day period. Informal leaves are subject to various MOUs.

Leave of absence (LOA)

Unpaid leaves of absence of up to one year may be granted to permanent employees by his/her supervisor in certain situations. If an employee anticipates the need for a leave of absence, s/he must prepare a formal request. When the employee returns from an unpaid leave of absence, s/he may not always return to the exact job s/he left, but s/he will be placed in the same classification or, if s/he and the DGS agree, a similar position for which s/he is eligible. Leaves of absence are subject to various MOUs. Types of LOA include:

- for personal reasons
- for medical reasons
- for educational reasons
- pending disability retirement (GC 19991.4), which states, "If a permanent or probationary employee is still not able to return to his/her former position and continues to receive permanent disability compensation, the DGS shall take at least one of the actions described in GC 19253.5 or grant a leave of absence for the period during which the employee receives permanent disability compensation or is being retrained."

[Refer to Personnel Operations Manual \(POM\) section "Leave of Absence."](#)

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Leave, All Types, Continued

Mentoring leave

Mentoring leave is paid leave time which may only be used by an employee to mentor. This leave does not count as time worked for purposes of overtime. Mentoring leave may not be used for travel to and from the mentoring location.

In order to be eligible for mentoring leave, an employee must:

- have a permanent appointment
- have successfully completed his/her initial probation period
- have committed to mentor a child or youth through a mentoring organization that meets the qualify assurance standards in accordance with the California Mentor Program Directory, under the guidance of the California Department of Alcohol and Drug Programs, for a minimum of one school year.

Eligible employees may receive up to forty hours of mentoring leave per calendar year to participate in mentoring activities once they have used an equal amount of their personal time for these activities.

Refer to a specific MOU for complete details of program and see the following link

<http://hr.dgs.ca.gov/TrainingPerformanceEnhancement/MentoringProgram.htm>

Military leave

There are four categories of military leave, defined as follows:

- short-term leave means a leave for 6 months or less
 - long-term leave means a leave for more than 6 months
 - emergency military leave means a leave for members of the National Guard during such time as the Governor may have issued a proclamation of a state of extreme emergency or insurrection under the provisions of Section 143 and 146 of the Military and Veterans Code or during such time as the National Guard may be on active duty for one or more situations in Section 146 of the Military and Veterans Code
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Leave, All Types, Continued

Military leave (continued)

- War or National emergency means a leave when the President has determined that it is necessary to augment the active forces for any operational mission, or in a time of a national emergency declared by the President or Congress

Each of the four categories of military leave has specific conditions for granting leave and for salary payment. These conditions are discussed in the "Handbook for California State Civil Service Employees Entering the Military Service" located at

<http://www.dpa.ca.gov/general/MilitaryLeave.shtm>

[Refer to Personnel Operations Manual \(POM\) section "Military Leave."](#)

Non- industrial disability leave (NDI)

Non-Industrial Disability leave (NDI) may apply when a non-work related illness or injury prevents an employee from performing regular job duties due to his/her physical or mental condition.

Non-Industrial Disability leave (NDI) is a wage continuation program completely paid for by the State, provided the employee meets established status criteria.

"Disability" or "disabled" includes mental or physical illness or injury, including any injury or illness resulting from pregnancy, childbirth, or related medical condition. An employee is deemed disabled on any day when, because of his/her physical, mental, or medical condition he/she is unable to perform his/her regular customary work.

Benefits under the Non-Industrial Disability Insurance (NDI) program is payable for a period not exceeding 26 weeks for any one disability. The 26 week benefit period shall be equivalent to 182 calendar days. The payment is limited to \$125 or \$135, depending on the collective bargaining agreement that cover the employees. Excluded employees receive a maximum of \$135 per week.

[Refer to Personnel Operations Manual \(POM\) section "NDI."](#)

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Leave, All Types, Continued

Parental leave

[Refer to the Personnel Operations Manual \(POM\) section "FMLA."](#)

Personal leave (PLP)

The personal leave program was initiated during FY 03/04, due to the budget crisis, which provided eight hours of leave and a reduction in base salaries amounting to 5%.

The program has been terminated, however, all personal leave accrued may still be used, donated, or rolled over into a retirement account, in accordance with established statutes, rules and policies.

Pregnancy leave

The DGS must provide up to four months disability leave for a woman who is disabled due to pregnancy, childbirth, or a related medical condition. However, if the DGS provides more than four months of leave for other types of temporary disabilities, the same leave must be made available to women who are disabled due to pregnancy, childbirth, or a related medical condition.

A woman who works for the DGS is eligible for pregnancy disability leave regardless of the length of time she has worked for the DGS. Further, an employee does not have to work full-time in order to be eligible. Refer to the following link for additional information

<http://www.dfeh.ca.gov/Statutes/pregnancyleave.asp> and
<http://www.dfeh.ca.gov/Publications/DFEH%20186.pdf>

Sick leave

Sick leave is defined as a necessary absence from work because of illness, injury or, medical treatment. In effect, sick leave functions as a form of wage insurance. Sick leave accrues:

- On the first day of each pay period
 - In a quantity based on length of service, time base, and MOU
 - As an unlimited total (no maximum)
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Leave, All Types, Continued

Sick leave (continued)

An employee may begin to use sick leave for approved absences once it has been earned. An employee may be allowed reasonable time off (normally two hours) for medical or dental appointments. Additional time may be allowed when justified and approved by and employee's supervisor.

Note: Unit 7 and Unit 18 collective bargaining agreements both include a provision that excludes sick leave hours as "hours worked" when computing overtime in the work week. All other paid leaves (e.g., annual leave, vacation, personal holiday, personal leave, CTO, etc.) still counts as "hours worked" when computing overtime.

Only hours actually charged as "sick leave" do not count toward overtime. When an employee is ill and uses annual leave (or other paid leave) in lieu of sick leave, the leave hours count as hours worked for overtime purposes.

Supplemental disability leave

All excluded employees and rank-and-file employees in all Bargaining Units (BU), except BU 5, who meet the eligibility requirements for IDL are eligible for supplemental disability leave.

If eligible, an employee may supplement IDL with sick leave, compensating time off, vacation, annual leave, personal leave, or holiday credit each month. Fractions of an hour may not be used. Credits used for supplementation will not be restored. IDL may be supplemented up to an employee's full net salary or s/he may choose to supplement with less time. Once an employee selects the level of supplementation, it can't be increased. The supplementation amount may be decreased or terminated at any point, but changes will be made on a prospective basis only. The effective date of any change will be the first day of the pay period following the pay period in which the change was submitted. [Click here for additional information.](#)

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Leave, All Types, Continued

- Union leave** The Union (all MOUs) has the choice of requesting an unpaid leave of absence or a paid leave of absence (union leave) for a Union bargaining council representative, steward, or chief job steward. An unpaid leave of absence may be granted by the DGS pursuant to the unpaid leave of absence provisions in each MOU. A Union leave may also be granted during the term of a MOU at the discretion of the DGS Director or designee in accordance to the following:
- The Union leave shall normally be requested on a State approved form 14 calendar days prior to the date of the leave
 - The Union leave request form shall be signed by either the DGS Director or the Deputy Director and no other signature will be honored by the State
 - A Union leave shall assure an employee the right to his/her former position upon termination of leave. The term former position is defined in Government Code Section 18522.
 - The Union agrees to reimburse the DGS for the full amount of the affected employee's salary, plus an additional amount equal to 35% of the affected employee's salary, for all the time the employee is off on a Union leave, within 60 days of billing. Disputes regarding reimbursement shall be resolved through the arbitration process
 - The affected employee shall have no right to return from a Union leave earlier than the agreed upon date without the approval of the DGS
 - Except in emergencies or layoff situations, a Union leave shall not be terminated by the DGS prior to the expiration date
 - Employees on a Union leave shall suffer no loss of compensation or benefits
 - Employees on Union leave under the MOU provision and the Union shall waive any and all claims against the DGS, for an injury or injuries sustained while on a Union leave, the Union agrees to indemnify and hold harmless the DGS from both Workers' Compensation liability and any costs of legal defense incurred as a result of the filing of the claim

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Leave, All Types, Continued

Vacation

All DGS employees are entitled to accumulate, and take, vacation hours. The various MOUs control some aspects of this paid absence.

Nevertheless, in general, a DGS employee's vacation:

- Is credited to the employee in the month after it is earned
 - Is credited in a quantity dependent on length of employment, time base, and MOU or excluded arrangement
 - Accrues every month the employee works
 - Has a "carryover" limit from fiscal year to fiscal year (often 640 hours)
 - Requires a supervisor's or manager's approval before the employee can take it
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Voluntary personal leave (VPLP)

The DPA announced the end of the mandatory Personal Leave Program (PLP) for all employees. The following provides the effective date, impact, and information and procedures on participating in the Voluntary Personal Leave Program (VPLP).

Effective July 1, 2004:

- No longer required to participate in the mandatory PLP
- Accruing an extra day of leave each month is discontinued
- A salary adjustment was issued to restore the PLP reduction for July
- August and September paychecks reflected the 5% raise

Retirement – Effective October 1, 2004

- Normal employee retirement contributions will resume
 - Deductions equal to roughly 5% of your salary
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Leave, All Types, Continued

Voluntary personal leave (VPLP) (continued)

Voluntary PLP

- Can participate by earning 8 or 16 hours of VPLP per month
- A 5% reduction in base pay will be calculated for each 8 hours
- The 5% raise will be counted as part of an employee's salary for retirement purposes
- An employee would continue to receive leave credit in lieu of taxable cash in his/her paycheck
- An employee must stay in the program for a minimum of 12 months
- If interested, complete the "Request For Voluntary Personal Leave Program (VPLP) 9/04" form and submit to the Personnel Transactions Unit (PTU)
- Request must be received by the 15th of the month to be effective the first day of the pay period
- Any forms received after the 15th of the month will be effective the first day of the following pay period

Special note:

- Bargaining Units (BU) 12 and 13 did not participate in PLP and do not have the option to participate in the VPLP
- Statutory exempts, which do not earn leave credits, are not eligible to participate in VPLP

Click on "[Request for VPLP](#)" for a copy of the election form.
